

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TEXAS TOP COP SHOP, INC., *et al.*,

Plaintiffs,

v.

MERRICK GARLAND, ATTORNEY
GENERAL OF THE UNITED STATES,
et al.,

Defendants.

No. 4:24-cv-478-ALM

**DEFENDANTS' REPLY IN SUPPORT OF MOTION TO STAY PRELIMINARY
INJUNCTION PENDING APPEAL**

Defendants submit this brief reply in support of their motion to stay, to respond to Plaintiffs' suggestion that Defendants "previously conceded" that Plaintiffs cannot obtain meaningful relief without a nationwide injunction. Pls.' Opp. at 2, ECF No. 37.

Defendants have consistently opposed nationwide relief in this matter, citing concerns over forum shopping, respect for the authority of sister courts, and other equitable principles. *See* Defs.' Opp. to Pls.' Mot. for PI at 29–30, ECF No. 18. At the hearing on Plaintiffs' motion for a preliminary injunction, Plaintiffs specifically declined to request nationwide relief under questioning from the Court, a limitation that was not reflected in Plaintiffs' original motion, and thus was not a form of relief to which Defendants had responded in its briefing. Ex. A, Mot. Hearing Tr. 3:15–:25. Counsel for Defendants welcomed that limitation, and further argued that Plaintiffs' request for the Court to issue relief to an associational plaintiff's 300,000 unnamed members across the country was "effectively" a form of nationwide relief. *Id.* 53:15–:22, 54:2–:15. Defendants did not concede that such relief was necessary or appropriate; instead, Defendants were arguing that providing such relief

implicated many of the same concerns as a nationwide injunction, and so the Court should decline to extend any injunction to NFIB's unnamed association members.¹ *Id.*; *see also* Defs.' Mot. to Stay at 8, ECF No. 35. These concerns were heightened as numerous other district courts declined to enjoin the CTA as to the named parties before them. *See* Notices of Supp. Auth., ECF Nos. 22, 27. Defendants further note that the only other court to have enjoined the CTA's enforcement did not issue a nationwide injunction, despite the presence of an organizational plaintiff. *See Nat'l Small Bus. United v. Yellen*, 721 F. Supp. 3d 1260, 1289 (N.D. Ala. 2024), appeal filed, No. 24-10736 (11th. Cir. 2024).

Defendants maintain that they have not conceded that nationwide relief is necessary to afford Plaintiffs relief, and such relief goes beyond that requested by the Plaintiffs. For these reasons, and the reasons stated in Defendants' motion, the Court should stay the preliminary injunction pending appeal.

Dated: December 17, 2024

Respectfully submitted,

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¹ Plaintiffs then offered, to address these concerns, to submit a membership list to the Court. Mot. Hearing Tr. 62:11–:15.

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2024, I electronically filed the foregoing document with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Faith E. Lowry

Faith E. Lowry

Trial Counsel

U.S. Department of Justice

Civil Division, Federal Programs Branch